



# California Regional Water Quality Control Board

## Los Angeles Region



**Terry Tamminen**  
Secretary for  
Environmental  
Protection

Over 51 Years Serving Coastal Los Angeles and Ventura Counties  
Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

**Arnold Schwarzenegger**  
Governor

320 W. 4th Street, Suite 200, Los Angeles, California 90013  
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.swrcb.ca.gov/rwqcb4>

### Los Angeles Regional Water Quality Control Board

#### Minutes of January 29, 2004 Regular Board Meeting held at City of Simi Valley Council Chambers, 2929 Tapo Canyon Road, Simi Valley, CA

#### INTRODUCTION

The meeting was called to order by Chairperson Cloke at 9:14 am.

#### Board Members Present

Julie Buckner-Levy, Susan Cloke, Francine Diamond, R. Keith McDonald (arrived at 9:50), Bradley Mindlin, and H. David Nahai

#### Board Members Absent

Christopher Pak and Tim Shaheen

#### Staff Present

Dennis Dickerson, Deborah Smith, David Bacharowski, Robert Sams, Michael Lauffer, Ronji Harris, Alex Carlos, Jenny Newman, Laura Gallardo, Jon Bishop, Blythe Ponek-Bacharowski, Paula Rasmussen, Rodney Nelson, David Hung, Wen Yang, Gary Schultz, Raymond Jay, Valerie Carillo, Dan Radalescu, Orlando Gonzalez, Rosario Aston

#### Others Present

Steve Peck  
Gary Washburn, Field Representative, Assembly  
Member Keith Richman  
Henry Graumlich, Camrosa Water District  
Nicole Benson, representing LA City Council  
Member Greig Smith  
Ralph Osterling  
Becky Bendikson  
Ralph Kroy  
Wayne Aller  
Anne Ziliak  
Pedro Joaquin Treminio, Major, City of Ciudad Dario  
Noel Amador, State Director of Water Supply and  
Wastewater Utility System  
Josephine Sanchez, City Of LA RAD  
Mike Caprio

Kathleen Sweet  
Rosemarie White, Sierra Club  
Mark Pumford, City of Oxnard  
Dave Edwards, BFI  
Mary Anna Kienholz  
Mary Edwards  
Meg Volk  
Wayde Hunter  
Kim Thompson  
Justo Velasquez , Major, City of Sebaco  
Bronley Alvarez Miranda Vice-Mayor,  
City of Ciudad Dario  
Mark Smith, City of Hidden Hills  
David Thompson, City of LA, LEA

#### **California Environmental Protection Agency**

\*\*\*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption\*\*\*  
\*\*\*For a list of simple ways to reduce demand and cut your energy costs, see the tips at: <http://www.swrcb.ca.gov/news/echallenge.html>\*\*\*

Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

Curt Fuji  
Tracy Egoscue, Santa Monica BayKeeper  
Reddy Pakala, Ventura County Water Works

Jim Hardesty  
Janet MacPherson, Surfrider Foundation  
Craig George, City of Malibu  
Marianne Yamaguchi, Santa Monica Bay  
Restoration Commission

Mark Gold, Heal the Bay  
Mike Candland, Malibu Surfing Association  
Mary Sue Maurer, representing Assembly Member  
Fran Pavley  
Joel Druckman, Malibu Surfing Association

Angie Bera, Santa Monica BayKeeper  
Darryl Siegrist, Ventura County EHD  
Bob Hauter, Deputy Supervisor to  
Supervisor Antonovich  
Shari London  
Bob Wu, City of LA DOT  
Arne Anselm, City of Thousand Oaks  
Carrie Inciong, LA County DPW

Jon Vail  
Yugall K. Lall, City of Malibu  
Bruce Douglas, Questa Engineering,  
representing City of Malibu  
Susan Nissman, representing LA  
County Supervisor Yaroslavsky

#### Pledge of Allegiance

1. Roll Call

2. Order of Agenda.

*10.2, 11.2-11.5, 14, and 15 were continued. The presentations for items 16 and 17 were to be heard first.*

3. The minutes for the December 4, 2003 Regular Meeting were approved with minor changes.

3.a. The minutes for the January 19, 2004 Board Retreat were approved.

4. Nominating Committee for Board Chair

Board Member David Nahai nominated current Vice Chair Diamond for Chair and current Chair Cloke as Vice Chair of the Regional Water Quality Control Board for 2004.

MOTION: By Board Member Nahai, seconded by Board Member Buckner-Levy and approved on a voice vote. No votes in opposition.

5. 2004 Board Meeting Calendar

*There was a motion to adopt the 2004 Calendar*

MOTION: By Board Member Nahai, seconded by Vice Chair Cloke and approved on a voice vote. No votes in opposition.

#### ***California Environmental Protection Agency***

\*\*\*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption\*\*\*  
\*\*\*For a list of simple ways to reduce demand and cut your energy costs, see the tips at: <http://www.swrcb.ca.gov/news/echallenge.html>\*\*\*



Recycled Paper

*Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.*

6. Board Member Communications and Ex Parte Disclosure

*Board Member Mindlin reported that he received a call from a person who would be speaking during Public Forum.*

*Board Member Nahai reported that he was a speaker at the California Water Agencies convention on improving relations with regulators. He reported that he had meetings and calls with EPA, BayKeeper, and City of Los Angeles regarding legal negotiations. He met with Los Angeles County regarding ACLs and legal negotiations, and the City of Malibu on septic issues. He reported that he went on a tour of the Sunshine canyon Landfill and the Chatsworth reservoir the previous day.*

*Vice Chair Cloke reported that she participated in several meetings with EPA, BayKeeper, and the City of Los Angeles regarding legal negotiations, meetings with the County of Los Angeles regarding ACLs and legal negotiations, and meetings in Malibu regarding MOU and TMDL issues. She reported that she went on a tour arranged by BFI of Sunshine Canyon Landfill and the Chatsworth Reservoir with members of Regional Board staff.*

*Chair Diamond reported that she attended a meeting with the City of Malibu to discuss water quality issues and received a call regarding the upcoming Boeing permit.*

7. Executive Officer's Report

*Nancy Sutley, State Water Resources Control Board, reported on recent State Board actions, including conditional agricultural runoff waivers, the upcoming hearing on the 303(d) listing policy, and the scoping meeting for the triennial review of the Ocean Plan.*

*Dennis Dickerson, Executive Officer, introduced delegates from Nicaragua who had attended the meeting, presented slides of the retention lake at the Newhall development, and discussed an upcoming Weather Channel program on runoff. He updated the Board on industrial stormwater inspection efforts, reviewed mandatory minimum penalty cases, permitting efforts in Malibu, and Hansen Dam 401 certification issues. He then showed a clip from CBS News on Algalita Marine Research Foundation's study on plastics in the Pacific Ocean.*

8. Public Forum

*Tim Nansen, Director of Public Works, City of Simi Valley, stated that he recently learned that the City was identified as a responsible jurisdiction in the Malibu bacteria TMDL to be heard later in the day. He stated that, as far as he knew, the City had no property in the Malibu Creek Watershed.*

**California Environmental Protection Agency**

\*\*\*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption\*\*\*  
\*\*\*For a list of simple ways to reduce demand and cut your energy costs, see the tips at: <http://www.swrcb.ca.gov/news/echallenge.html>\*\*\*



Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

*Richard Hagas, General manager, Camrosa Water District, updated the Board on the efforts of the Calleguas Creek Watershed Planning Committee.*

*Lisette Verelles, asked for a case worker or for assistance with site cleanup at her property in Mandalay Beach. She stated that the guidance provided by the Board is difficult to follow.*

9. Uncontested Items

*There was a motion to approve the following consent items:*

*10.1 (with change sheet), 10.3, 10.4, 11.1, 18 (with change sheet), 19.1, and 19.2.*

MOTION: By Vice Chair Cloke, seconded by Board Member Nahai, and approved on a voice vote. No votes in opposition.

16. Status of Sunshine Canyon Landfill

*Rodney Nelson, Chief, Landfills Unit, gave the staff presentation on the recent developments regarding the Sunshine Canyon Landfill. He reviewed the reopener and reconsideration provisions in the WDRs that were approved by the Board in December 2003. He reviewed progress on the 401 certification for the landfill expansion, reviewed the results of the City of Los Angeles leachate study, and discussed the petitions to the State Board filed by the North Valley Coalition and Browning Ferris Industries.*

17. 401 Certification for the Sunshine Canyon Landfill

*Raymond Jay, Chief, Nonpoint Source Unit, gave the staff presentation. He reviewed the requirements of a 401 certification and discussed the project activities that required a certification, including grading and excavation in delineated wetlands and stream zone areas. He reviewed the impacts of the project and the compensatory mitigation required for the 401 certification, which was 4 to 1 wetlands mitigation and 3 to 1 stream mitigation. He discussed the reasons for choosing the proposed mitigation site at the Chatsworth Reservoir, discussed the additional \$100,000 that BFI would pay for a mitigation project in Granada Hills, and reviewed changes to the draft certification since it was first sent to the Board. He asked for Board direction to the Executive Officer for approval of the 401 certification.*

*BFI then gave the discharger presentation. They discussed the impacts of the proposed landfill activity, the chosen mitigation site, and a past mitigation project at Arroyo Seco conducted by BFI.*

*Wade Hunter, North valley Coalition, read a letter from Gary Washburn, representing Assembly Member Keith Richman, opposing the 401 certification.*

**California Environmental Protection Agency**

\*\*\*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption\*\*\*  
\*\*\*For a list of simple ways to reduce demand and cut your energy costs, see the tips at: <http://www.swrcb.ca.gov/news/echallenge.html>\*\*\*



Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

*Nicole Benson, representing Los Angeles City Council Member Greig Smith, asked for a stringent 401 certification.*

*Dr. Wayne Aller, Knowland Property Owners, stated that he was not given proper notification of the meeting and asked for the mitigation to occur closer to the impacted site.*

*Becky Bendickson, stated that she was not given proper notice of the meeting and opposed the 401 certification.*

*Dr. Rosemarie White, Sierra Club, stated that she had concerns about the proposed mitigation site.*

*Mary Anna Keinholz, North Valley Coalition, stated that the proposed mitigation site in Chatsworth was too far away from the impacted site.*

*Ralph Kroy, North Valley Coalition, stated that he was not given proper notice of the meeting and opposed the 401 certification.*

*Anne Ziliak, North Valley Coalition stated that she was not given proper notice of the meeting and opposed the 401 certification.*

*Dave Edwards, BFI, responded that the proposed Chatsworth site would fully mitigate the impacts at the Landfill.*

*Michael Lauffer, staff counsel, addressed the notification issues. He stated that the draft certification had been posted on the web site for at least a year and that staff had legally complied with all notification requirements.*

*Raymond Jay added that staff understood that the Board made it clear at the December Board meeting that the 401 certification would be brought before the Board at this meeting.*

*Board Member McDonald asked BFI if the mitigation could be completed any closer to the impacted site.*

*Mr. Edwards replied that it could not.*

*Board Member Nahai asked how BFI arrived at the figure of \$100,00 for a mitigation project in Granada Hills.*

*Mr. Edwards replied that BFI looked at the restoration of Bull Creek as an example.*

*Vice Chair Cloke asked BFI to discuss how they decided on the proposed mitigation site.*

### ***California Environmental Protection Agency***

***\*\*\*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption\*\*\*  
\*\*\*For a list of simple ways to reduce demand and cut your energy costs, see the tips at: <http://www.swrcb.ca.gov/news/echallenge.html>\*\*\****



Recycled Paper

*Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.*

*Ralph Osterling, representing BFI, replied that they reviewed potential sites using topographical maps and field visits.*

*Vice Chair Cloke asked BFI to commit to restoring Bull Creek in addition to the proposed mitigation site at Chatsworth Reservoir, even if the cost of restoration exceeded \$100,000.*

*Mr. Edwards agreed.*

*Chair Diamond asked Nicole Benson to respond to the mitigation issue.*

*Ms. Branson replied that she supported Vice Chair Cloke's proposed compromise.*

*The Board discussed the noticing issue and directed staff to ensure that they ~~went~~ go beyond legal requirements to ensure that all interested parties ~~were~~ are given adequate notice of upcoming issues before the Board.*

*There was a motion to adopt staff's recommendation, including changes reviewed by staff at the meeting, and incorporating requirements for the restoration of Bull Creek and ongoing oversight of the Chatsworth Reservoir mitigation site.*

**MOTION:** By Vice Chair Cloke, seconded by Board Member Buckner-Levy, and approved on a voice vote. No votes in opposition.

16. Update on MOUs for Onsite Sewage Treatment Systems

*Paula Rasmussen gave the staff presentation, including background on the need for the MOUs to renew waivers for residential onsite wastewater treatment systems by June 30, 2004. She responded to the Board's direction at the December 2003 meeting for additional information, including criteria for determining high-risk systems, progress with local agencies on MOU negotiations, and a consideration of terminating waivers for certain high-risk systems and directly regulating them through WDRs. She stated that staff recommended that the Board continue to delegate permitting authority for all septic systems, with strict performance and monitoring requirements for high-risk systems. Additionally, she stated that staff supported the delegation of permitting authority for low-risk commercial systems to local agencies.*

*Craig George, Building Official, City of Malibu, supported staff's approach but asked that specific requirements not be included in the MOUs. He stated that the City would prefer to incorporate Basin Plan requirements, including TMDL requirements by reference.*

*The Board supported staff's recommended approach, but asked that staff more thoroughly address enforcement. They directed staff to explicitly define the various*

**California Environmental Protection Agency**

\*\*\*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption\*\*\*  
\*\*\*For a list of simple ways to reduce demand and cut your energy costs, see the tips at: <http://www.swrcb.ca.gov/news/echallenge.html>\*\*\*



Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.



*enforcement mechanisms that were available to address single family homeowners who were non-compliant as well as local agency programs that were inadequate.*

13. Malibu Bacteria TMDL

*Melinda Becker, Chief, TMDL Unit, gave the staff presentation. She reviewed the impairments of Malibu Creek and the Lagoon by bacteria and discussed the contributing sources, including storm water and failing onsite wastewater treatment systems (OWTS). She summarized the changes made by staff in response to comments on the current and previous drafts, including changes associated with the implementation schedule to allow for an integrated resources plan, the jurisdictional responsibilities, and monitoring requirements. She then reviewed remaining unresolved issues including the reference watershed study and the implementation plan for OWTS. She presented two approaches for addressing high-risk OWTS, either based on a setback of 250 feet or a study to be conducted by responsible jurisdictions.*

Public Comments

*Yugal Lall, Director, City of Malibu Public Works, stated concerns about the timeframe for implementation and the practical implications of the TMDL. He then updated the Board on Malibu's storm water treatment facility.*

*Bruce Douglas, representing the City of Malibu, supported a 6-year dry-weather and 18-year wet weather implementation schedule and a local agency determination of high-risk OWTS.*

*Mark Smith, City of Hidden Hills, stated that he understood the technical reasons for the City's inclusion as a responsible jurisdiction, but saw no practical justification for their inclusion.*

*Susan Nissman, representing LA County Supervisor Yaroslavsky, discussed Los Angeles County's development of a regional implementation plan for the North Santa Monica Mountains watersheds. She supported the 18-year wet weather implementation schedule and opposed prescriptive requirements for OWTS.*

*Carrie Inciong, LA County Department of Public Works, asked that the Santa Monica Bay beaches TMDL implementation schedule be extended for Surfrider Beach, and that the reference beach data be from the wave wash. She stated that since there were few MS4 facilities in the Malibu watershed, there were limited resources available for compliance in that watershed.*

*Tracy Egoscue, Santa Monica BayKeeper, asked for a definition of "no impact" in the proposed approach to determine high-risk OWTS. She stated that the optional reference beach study should be mandatory and that the wet-year implementation schedule should be kept at 10 years.*

**California Environmental Protection Agency**

\*\*\*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption\*\*\*  
\*\*\*For a list of simple ways to reduce demand and cut your energy costs, see the tips at: <http://www.swrcb.ca.gov/news/echallenge.html>\*\*\*



Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

*Angie Bera, Santa Monica BayKeeper, asked that the Board ensure that the Santa Monica Bay beaches TMDL monitoring plan be met through this TMDL and suggested language regarding the reference watershed study.*

*Mike Candland, Malibu Surfing Association, supported a shorter implementation schedule.*

*Joel Druckman, Malibu Surfing Association, supported a shorter implementation schedule.*

*Mark Gold, Heal the Bay, asked that the reference study mandate studies in the upper watershed and that there be no re-opener unless the reference study was completed. He supported the approach to define high-risk systems based on a setback of 250 feet as a minimum distance to establish immediate compliance.*

*Janet MacPherson, Surfrider Foundation, supported a shorter implementation schedule.*

#### **Staff Response**

*Jon Bishop, Chief, Regional Programs Section, responded to the Cities concerns and agreed with the language suggested by Ms. Bera.*

*Melinda Becker responded to the reference watershed concerns.*

*Board Member Nahai asked if the high-risk determination recommended for the MOU could be used in the TMDL.*

*Mr. Bishop replied that the TMDL was more specific than the region-wide MOU approach.*

*Vice Chair Cloke asked how the upcoming nutrient TMDL would work with the bacteria TMDL. She asked if the dry weather compliance could not be achieved through individual requirements for OWTS, would an extension be granted to accommodate a regional solution such as a small treatment plant.*

*Jon Bishop replied that the delay in the nutrient TMDL would not interfere with the implementation of the bacteria TMDL. He stated that an extension would be allowed for dry weather compliance.*

*Vice Chair Cloke asked if the North Santa Monica Mountains Watershed group was an all inclusive organization.*

*Ms. Becker replied that it included all cities in the TMDL but that they were in their preliminary stages.*

#### **California Environmental Protection Agency**

**\*\*\*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption\*\*\*  
\*\*\*For a list of simple ways to reduce demand and cut your energy costs, see the tips at: <http://www.swrcb.ca.gov/news/echallenge.html>\*\*\***



Recycled Paper

*Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.*



*Vice Chair Cloke asked if there were any significant opportunities in the watershed for groundwater recharge needed to implement an integrated resources plan. She asked if the responsible jurisdictions understood the definition of an integrated resources plan.*

*Mr. Bishop replied that staff did not have an answer ~~no~~ and would be requiring that information in the 1-year plan ~~to~~ be submitted by responsible jurisdictions. He stated that the level of understanding was variable among stakeholders and staff would be working with them to educate them.*

*Chair Diamond stated that a watershed reference study seemed necessary to have an honest look at the watershed.*

*Mr. Bishop replied that staff agreed but were looking for ways to avoid a costly study if it turned that it was not necessary.*

*Board Member Nahai stated that the determination of high-risk needed to be made by the Regional Board, not the responsible jurisdictions. He made a motion to adopt the TMDL as proposed by staff, with the changes in the change sheet, and additionally making the optional reference study mandatory and defining high-risk systems as those systems with a setback of less than 250 feet from a 303(d) listed waterbody and a groundwater separation of less than 10 feet subject to an adequate showing to the contrary by the permittee. He gave general direction that the responsible jurisdictions should be made to understand that the 18-year wet weather implementation schedule would only be allowed under exceptional circumstances.*

*Michael Laufer added some non-substantive language regarding the wet weather implementation schedule. He added a new finding to the resolution stating that pursuant to sections 13240 and 13242 of the Water Code and consistent with section 303(d) of the Clean Water Act, the Regional Board is not required to consider costs versus benefits with respect to this TMDL.*

**MOTION:** By Board Member Nahai, seconded by Board Member Buckner-Levy, and approved on a voice vote. No votes in opposition.

#### Adjournment of Current Meeting

The meeting adjourned at 5:08 pm. The next regular meeting is scheduled for March 4, 2004, at the Metropolitan Water District of Southern California, 700 North Alameda Street, Los Angeles, at 9:00 a.m.

Minutes adopted at the \_\_\_\_\_ Regular Board meeting submitted/amended.

Written and submitted by: \_\_\_\_\_.

#### ***California Environmental Protection Agency***

***\*\*\*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption\*\*\*  
\*\*\*For a list of simple ways to reduce demand and cut your energy costs, see the tips at: <http://www.swrcb.ca.gov/news/echallenge.html>\*\*\****



Recycled Paper

*Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.*